

319.270 Federal acquisition conferences.

The Department of Commerce is responsible for coordinating the participation of Federal civilian agencies in a continuing series of conferences which are sponsored by members of Congress. The objectives of these conferences are:

- (a) Location of additional acquisition sources to broaden the acquisition base of Federal agencies;
- (b) Stimulation of local, regional, and national economic growth, national security, and cost reduction;
- (c) Location of underutilized production capacity;
- (d) Prevention or elimination of pockets of underemployment; and
- (e) Assistance of small and small disadvantaged business concerns.

As notified by the OSDDBU, contracting activities shall provide appropriate SADBUS or acquisition personnel to participate in person-to-person counseling at these conferences. Ordinarily, participation by contracting activities will be restricted to conferences held within the geographical areas adjacent to their offices. The brochure, "How To Do Business With DHHS" should be of great assistance in this counseling as it has been specifically prepared to assist individuals, firms, and institutions who may wish to do business with this Department. It contains a brief description of the mission and programs of HHS and its Operating Divisions and provides a listing of contracting offices and the types of services and commodities acquired by each.

Subpart 319.5—Set-Asides for Small Business

319.501 General.

(c) Prior to the contracting officer's review, the SADBUS shall review each proposed acquisition to determine the feasibility of recommending award to the Small Business Administration (SBA) pursuant to section 8(a) of the Small Business Act. When it cannot be awarded to SBA pursuant to section 8(a), the SADBUS shall review the proposed acquisition to determine if it can be recommended as a set-aside under one of the set-aside priorities stated in FAR 19.504. The SADBUS's rec-

ommendation shall be entered on Form HHS-653, Small Business-Labor Surplus Set-Aside Review Form, with the reasons for the type of set-aside recommended, or the reasons for not recommending a set-aside, and provided to the contracting officer. Upon receipt of the Form HHS-653, the contracting officer shall promptly concur or nonconcur with the SADBUS's recommendation. The contracting officer will make the final determination as to whether the proposed acquisition will be set-aside or not. If the contracting officer approves the SADBUS's set-aside recommendation, the proposed acquisition will be set-aside as specified. However, if the contracting officer disapproves the SADBUS's set-aside recommendation, the reasons must be documented on the Form HHS-653, and the form signed. (See 319.505 for options available to the SADBUS regarding the contracting officer's disapproval of a set-aside recommendation.) In all cases, the completed Form HHS-653 is to be retained by the contracting officer and placed in the contract file.

[57 FR 11690, Apr. 7, 1992]

319.503 Setting aside a class of acquisitions.**319.503-70 Small business class set-aside for construction, repair, and alteration work.**

A small business class set-aside is considered to have been made for each proposed acquisition for construction, repair, and alteration work in an estimated amount ranging from \$2,500 to \$2 million. Accordingly, the contracting officer shall set aside for small business each proposed acquisition. If, in his/her judgment, the particular acquisition falling within the dollar limits specified above is unsuitable for a set-aside for exclusive small business participation, the procedure set forth in FAR 19.506 shall apply. Proposed acquisitions for construction, repair, and alteration work in an estimated amount of more than \$2 million shall be processed on a case by case basis.

319.505 Rejecting set-aside recommendations.

(a) If the contracting officer rejects the SADBUS's recommendation for a

set-aside and an SBA procurement center representative (PCR) is not assigned or available, the SADBUS may appeal, in writing, to the head of the contracting activity (HCA) or his/her designee. The SADBUS shall provide the HCA or designee all the pertinent information concerning the set-aside disagreement, and the HCA shall respond in writing within seven business days. The HCA's decision is final and not appealable. The decision by the HCA shall be attached to the Form HHS-653 and placed in the contract file. After receipt of a final decision by the HCA, and if the decision approves the action of the contracting officer, the SADBUS shall forward, for information and management purposes, complete documentation of the case to the OSDBU Director. Documentation transmitted shall include, as a minimum, a copy of the appeal memorandum submitted to the HCA, a copy of the IFB or RFP, a list of proposed sources, a copy of the Form HHS-653 and attachments completed by the SADBUS and the contracting officer, a copy of the HCA's decision, and all other written material considered by the HCA in arriving at the decision. The SADBUS' transmittal memorandum shall contain an affirmative statement that the attachments constitute the complete file reviewed and considered by the HCA in making the final decision.

If an SBA PCR is assigned or available and the SADBUS refers the case to that person, the SBA PCR may either concur with the decision of the contracting officer not to set-aside the proposed acquisition or recommend to the contracting officer that it be set-aside. For the SBA PCR to make a comprehensive review, at least the following should be provided as attachments to the Form HHS-653: the statement of work, evaluation criteria, Government cost estimate, source list including size of firms, and a copy of any justification for other than small business considerations that may be applicable. Once the case has been referred to the SBA PCR, no further appeal action shall be taken by the SADBUS. (Refer to FAR 19.505 for the procedures available to the SBA PCR if the con-

tracting officer rejects the set-aside recommendation.)

[49 FR 14007, Apr. 9, 1984, as amended at 57 FR 11690, Apr. 7, 1992]

319.506 Withdrawing or modifying set-asides.

(b) If an SBA PCR is not assigned, the disagreement between the contracting officer and the SADBUS shall be referred to the HCA for resolution.

(d) Immediately upon notice from the contracting officer, the SADBUS shall provide telephone notification regarding all set-aside withdrawals to the OSDBU Director.

319.570 Contract payments.

Contract payments to small business concerns must be made on a timely basis. Payment of an invoice or voucher must be made within 30 days after receipt of the invoice or voucher or from acceptance of the goods or services. Each invoice or voucher from a small business concern not sent directly to the servicing finance office, but received by the contracting activity, shall be stamped or otherwise identified for expedited payment before it is forwarded to the servicing finance office.

Subpart 319.7—Subcontracting With Small Business and Small Disadvantaged Business Concerns

319.705 Responsibilities of the contracting officer under the subcontracting assistance program.

319.705-2 Determining the need for a subcontracting plan.

The dollar value of all proposed incremental funding actions shall be included in determining whether the acquisition meets the dollar threshold requiring a subcontracting plan. The subcontracting plan shall be based on the total value of the acquisition which will include the value of all option quantities or funding actions.

319.705-3 Preparing the solicitation.

The SBA PCR should be allowed a period of one to five business days for the review of the solicitation, depending